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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,089	11/27/2001	Richard W. Berenson	T00485.70005 INB/GSE	2527
23628 7590 05/08/2007 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206			EXAMINER SALTARELLI, DOMINIC D	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/996,089	BERENSON ET AL.	
	Examiner	Art Unit	
	Dominic D. Saltarelli	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 7-10 and 12-17 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (6,637,029) [Maissel] in view of Kemink et al. (6,563,430) [Kemink].

Regarding claims 7, 8, 12, 13, 14, and 17, Maissel discloses a method, apparatus (col. 10, lines 23-38), and corresponding computer program product (col. 16, lines 5-11), presenting program listing information in a two dimensional grid (fig. 9A), comprising:

send and receive program preference information (col. 11, lines 48-64 and col. 12, lines 45-59);

send and receive information on available programs (col. 11, lines 48-64);

creating a two dimensional grid where one axis represents the time slots in which programs are available, wherein programs are displayed along with first

axis without regard to channel (col. 13 line 34 – col. 14 line 19, particularly the creation of virtual channels, col. 14, lines 10-16, wherein programming is listed according to preference information); and displaying the grid to the user (such as shown in figs. 9A-C).

Maissel fails to disclose a second axis representing a suggested preference order of the program in each time slot.

In an analogous art, Kemink teaches a program guide wherein programs are presented to a user, and the entire list of programs is presented but sorted according to preference (col. 5, lines 16-27), providing the benefit of a sorted list of programming from which to choose.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and computer program product of Maissel to include a second axis representing a suggested preference order of the program in each time slot, as taught by Kemink, for the benefit of displaying a sorted list of programming from which a user can select desired programs. Maissel supports the rearrangement of programs within a guide according to preference information (col. 13, lines 54-55), and the combination of Maissel and Kemink provides for listing a program on a channel that may be listed at a different location on the second axis from another program on the same channel in a different time slot (because Kemink teaches listing programs along a first axis as a sorted list according to preferences for particular programs, and Maissel teaches listing programs along the time axis without regard to channel).

Regarding claim 9, Maissel and Kemink disclose the computer readable medium of claim 8, wherein the suggested preference order is determined based on personal preference information (Maissel, col. 13, lines 35-47).

Regarding claim 10, Maissel and Kemink disclose the computer readable medium of claim 8, wherein the computer executable instructions comprise instruction to select a program and have all conflicting program options eliminated from the grid (Maissel, col. 13, lines 58-61).

Regarding claims 15 and 16, Maissel and Kemink disclose the apparatus of claim 13, wherein the program preference information is received for either a user (Maissel, col. 12, lines 45-59) or a server (Maissel, col. 19, lines 58-63).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DS


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER